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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THE 29TH DAY OF MAY 1998

BEFORE:

THE HON'BLE MR. JUSTICE H. RANGAVITTALACHAR

H. R. R. P. NO. 569/1994

Sri V. U. Umashankar,
s/o Sri V. A. Umapathi,
major, No. 2349,
20th Cross,
Banashankari II Stage,
Bangalore-70.

Petitioner

(By Sri R. B. Sadashivappa)

-vs-

Sri J. G. Thotadappa,
s/o Sri Gurusiddappa,
major, r/o Jadigenahalli,
Hosakote Taluk,
Bangalore District.

Respondent

(By Sri C. V. Nagesh for caveator/respondent)

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This revision petition is filed under
Section 50 (1) of the Karnataka Rent Control Act,
against the order dated 18.2.94 passed in HRC
No. 2679/89 on the file of the Additional Small
Causes Judge, Bangalore City.

This revision petition coming on for
hearing this day, the court made the following:

ORDER

ORDER

During an enquiry of an eviction petition filed by the respondent, the landlord also made an application under Section 29 (1) of the Karnataka Rent Control Act (for short 'the Act') contending that the tenant has filed to pay the rents from 1.4.1986 till the date of the application. This application was enquired into by the trial court by an order on I.A.I and it passed an order determining the arrears of rent the petitioner was liable to pay at Rs.41,700/- ^{^ directed to pay} within 30 days from the date of the order. Since the tenant did not comply with the order, the landlord made an application under Section 29 (4) of the Act praying the court to stop further proceedings and pass an order of eviction. It has to be stated that though the petitioner was served with the copy of the ~~petition~~ ^{Section 29 (4)} application he has not filed any reply. Therefore the court held that in spite of the directions issued in I.A.I, the tenant had failed to pay the entire arrears of rent nor has shown any cause for non-payment of rent. Therefore the court passed an order under Section 29 (4) of the Act stopping the further proceedings and directing the petitioner to quit and deliver vacant possession. This order is under challenge.

H.R.✓

Sri R. B. Sadashivappa, learned counsel appearing for the petitioner contended that on 17.6.93 he made an application I.A.VIII, requesting the court to extend the time for deposit by another 3 months as he intends to challenge the ^{orders in} I.A. before the High Court. Therein he has explained the reasons why he has not deposited the arrears of rent. The court below has not considered this aspect of the matter. Therefore the order of the court below suffers from an error of record; In the absence of other material on record it can be said that that could be construed as showing some cause but unfortunately for the tenant under Section 29 (4) he has not chosen to give any explanation for not depositing the arrears of rent. The tenant persisted in stating that he had paid the rents in excess, but it was not supported by any material; Under the circumstances, the court was justified in holding that the tenant had not shown any sufficient cause. Therefore the order of the court below cannot be faulted.

There is no merit in the petition. The petition is liable to be dismissed and it is accordingly dismissed.

H.R.V

At this stage the learned counsel for the tenant submitted that the tenant's wife has suffered heavy loss in the business and is in extreme difficult condition. With great difficulty he was able to pay the entire arrears of rent. As on today he is not due in arrears of rent. Under the circumstances he prayed for 3 years time to quit and deliver vacant possession of the premises.

The learned counsel for the landlord did not seriously oppose for grant of time. Under the circumstances the tenant is granted 3 years time to vacate the premises subject to the following conditions:

1. That he shall file an affidavit undertaking to voluntarily vacate the premises.
2. The affidavit shall be filed within 4 weeks from today after serving a copy of the same on the other side.
3. That he shall pay the monthly rents regularly as and when it falls due without default.
4. That he shall not sub-let or sub-lease the premises.

Sd/-
JUDGE

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